

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

J&J SPORTS PRODUCTIONS, INC.,	§	
as Broadcast Licensee of the September 17, 2011	§	
“Star Power”: Mayweather/Ortiz Fight Program,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:14-cv-03374-B
	§	
1) MORELIA MEXICAN RESTAURANT,	§	
INC., individually, and d/b/a MORELIA and	§	
d/b/a MORELIA MEXICAN RESTAURANT	§	
and d/b/a MORELIA MEXICAN	§	
RESTAURANT & CLUB;	§	
2) SANTOS LOZANO, individually, and d/b/a	§	
MORELIA and d/b/a MORELIA MEXICAN	§	
RESTAURANT and d/b/a MORELIA	§	
MEXICAN RESTAURANT & CLUB; and	§	
3) BRAULIO LOZANO, individually, and d/b/a	§	
MORELIA and d/b/a MORELIA MEXICAN	§	
RESTAURANT and d/b/a MORELIA	§	
MEXICAN RESTAURANT & CLUB,	§	
	§	
Defendants.	§	

PLAINTIFF’S SUPPLEMENTAL BRIEF & EVIDENCE OF COSTS

Pursuant to the Court’s August 28, 2015 *Memorandum Opinion and Order* [Doc. 10], Plaintiff J&J Sports Productions, Inc. (“Plaintiff”) requests that the Court award Plaintiff recovery of its full costs, consisting of filing fees, service of process fees, and investigative costs.

1. “In 1988, Congress amended Section 605 to provide for the **mandatory recovery of full costs...**” *Joe Hand Promotions v. D.M.B. Ventures*, 1995 U.S. Dist. LEXIS 7587 at *24 (E.D. La. May 31, 1995); *see Time Warner Entertainment/Advance-Newhouse Pshp. v. Worldwide Elecs, L.C.*, 50 F. Supp. 2d 1288, 1302 (S.D. Fla. 1999) (“Full costs may include, recovery of investigative costs.”); *Kingvision Pay-Per-View Ltd. v. Autar*, 426 F. Supp. 2d 59, 67

(E.D.N.Y. 2006) (finding investigative costs included in "full costs" recoverable under The Federal Communications Act).

FILING FEES

2. The Court can take judicial notice that Plaintiff's filing fee was \$400.¹ *See Schedule of Fees* at <http://www.txs.uscourts.gov/page/schedule-fees>.

SERVICE FEES

3. The total service fees in this case were \$165. *See* [Doc. 5]. These amounts were for \$65.00, \$65.00, and \$35.00, which is less than the cost of service from a court officer. *See* Dallas Court Civil Filing Fees, available at <http://www.dallascounty.org/department/countyclerk/feescivil.php> (\$80.00 to serve citation in Dallas County); *see generally* 28 U.S.C. § 1921; 28 C.F.R. § 0.114 (\$65.00 per hour, per U.S. Marshal required to serve a summons, plus mileage).

INVESTIGATIVE COSTS

4. The investigative costs in this case were \$535.00. *See* Exhibit "A". This amount is reasonable. *See Joe Hand Promotions, Inc. v. Tin Cup Sports Bar, Inc.*, 2012 U.S. Dist. LEXIS 91378, at *9 (S.D. Tex. June 28, 2012) (Miller, J.) (Finding \$575.00 in investigation fees to be reasonable and awarding them as part of the costs); *Affidavit of Andrew R. Korn*, Exhibit "B".

¹ *See Rowe v. Watkins*, 324 S.W.3d 111, 114 (Tex. App.—El Paso 2010, no pet.) (Taking judicial notice of cost of filing fees); *Joe Hand Prods. v. Zafaranloo*, 2014 U.S. Dist. LEXIS 46006, at *15 (E.D.N.Y. Mar. 11, 2014) ("A court can take judicial notice of this district's filing fee amount...").

CONCLUSION

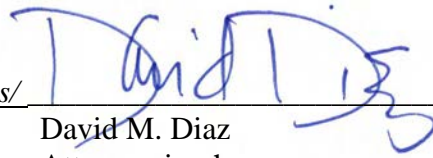
5. Plaintiff requests that the court award the following costs:

Filing Fees:	\$400.00
Service Fees:	\$165.00
Investigative Costs:	\$535.00

Total Costs:	\$1,100.00
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Respectfully submitted,

By: s/



David M. Diaz
Attorney-in-charge
State Bar No. 24012528
Southern District Bar No. 889588
ddiaz@kdbtexas.com
Andrew R. Korn
Of Counsel
State Bar No. 11683150
Southern District Bar No. 13801
akorn@kdbtexas.com

THE KORN DIAZ FIRM
4221 Avondale Ave.
Dallas, Texas 75219
(214) 521-8800 – Telephone
(214) 521-8821 – Telecopy

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of September, 2015, I have mailed by United States

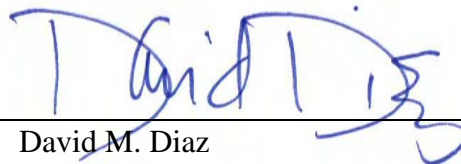
Postal Service a copy of this document to the following non-CM/ECF participants:

Santos Lozano,
Braulio Lozano, and
Morelia Mexican Restaurant, Inc.
c/o Santos Lozano
2707 W. Jefferson
Dallas, TX 75211

VIA U.S. MAIL AND U.S. CERTIFIED MAIL
RRR# 7014 3490 0000 4941 0749

DEFENDANTS

By: s/



David M. Diaz

EXHIBIT “A”

Invoice

091711-1448

Law Offices of Thomas P. Riley, P.C.
First Library Square, 1114 Fremont Avenue
South Pasadena, CA 91030-3227

626-799-9797 Fax: 626-799-9795
TPRLA@att.net

Today's Date

12/6/2011

Event & Date

May v. Ort/9-17-11

Affidavit Received Date

11/3/2011

Make Check Payable To:

Audit Masters
 Dee Garza
 710 Buffalo, Suite 213
 Corpus Christi, TX 78401-1933

#	Affidavit	License	Video	Still Photos	Amount
1	Vaqueras Y Pistoleros, El Paso, TX	No	No	Yes	530.00
2	Chicas Sports Bar, El Paso, TX	No	No	Yes	525.00
3	Horizon Nite Club, El Paso, TX	Yes	No	Yes	550.00
4	The Partida Hall, El Paso, TX	No	No	Yes	525.00
5	Los Arcos Restaurant, West Saint Paul, MN	Yes	No	Yes	550.00
6	La Que Buena Restaurant, Minneapolis, MN	No	No	Yes	525.00
7	Pancho Villa Restaurant, Minneapolis, MN	Yes	No	Yes	550.00
8	La Palapa Restaurant, Saint Paul, MN	Yes	No	Yes	550.00
9	El Nuevo Rodeo Restaurant, Minneapolis, MN	Yes	No	Yes	550.00
10	The Glass House, Detroit, MI	Yes	No	Yes	535.00
11	The One Fifty Restaurant-Lounge, Detroit, MI	No	No	Yes	535.00
12	Donovan's Pub, Detroit, MI	Yes	No	Yes	550.00
13	Cavanaugh's, Philadelphia, PA	No	No	Yes	550.00
14	Sabels Showbar, Philadelphia, PA	No	No	Yes	535.00
15	Ches Bar and Grill, Philadelphia, PA	No	No	Yes	530.00
16	Primo Bacio Ristorante Italiano Bar, Wyncote, PA	No	No	Yes	555.00
17	La Zona Rosa, Dallas, TX	No	No	Yes	560.00
18	Morelias Mexican Restaurant, Dallas, TX	No	No	Yes	535.00

Thanks For Your Loyal Participation!**Total:**

Invoice

091711-1448

Law Offices of Thomas P. Riley, P.C.
First Library Square, 1114 Fremont Avenue
South Pasadena, CA 91030-3227

626-799-9797 Fax: 626-799-9795
TPRLA@att.net

Today's Date

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Make Check Payable To:

Audit Masters
 Dee Garza
 710 Buffalo, Suite 213
 Corpus Christi, TX 78401-1933

#	Affidavit	License	Video	Still Photos	Amount
19	Hachas, Tomball, TX	No	No	Yes	525.00
20	Clucker's Grill and Bar, Tomball, TX	Yes	No	Yes	555.00
Thanks For Your Loyal Participation!					Total: \$10,820.00

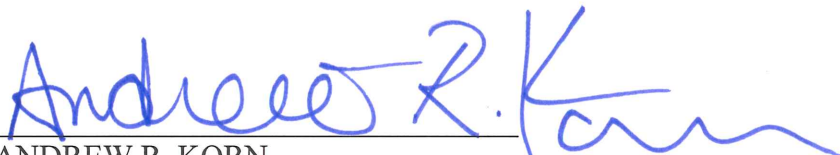
EXHIBIT “B”

knowledge as an attorney licensed to practice law in the State of Texas and as an attorney representing J&J Sports Productions, Inc. ("Plaintiff").

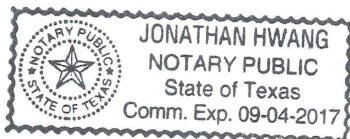
3. My current Curriculum Vitae is attached hereto as Exhibit B-1.

4. Since 2001, my firm has handled (or is in the process of handling) in excess of five thousand (5,000) anti-piracy cases, including cases in the federal district courts for the Northern, Southern, Eastern and Western Districts of Texas.

5. Courts have acknowledged that detecting signal piracy is difficult. *See e.g. J&J Sports Prods., Inc. v. Cruz*, 2014 U.S. Dist. LEXIS 114208 (S.D. Tex. Aug. 18, 2014) (Rosenthal, J.); *J&J Sports Prods., Inc. v. Bernal*, at *3-4; *J & J Sports Prods. v. Bernal*, 2010 U.S. Dist. LEXIS 89488 (E.D.N.Y. July 28, 2010). Based on my experience in handling anti-piracy cases, it is my opinion that the fee of \$535.00 for the auditor's investigation in this case¹ is a reasonable fee.


ANDREW R. KORN

SUBSCRIBED AND SWORN TO BEFORE ME, an officer authorized to administer oaths, on the 24 day of September, 2015, to certify which witness my hand and official seal.




Notary Public, in and for the State of Texas

Jonathan Hwang
Printed Name of Notary Public

¹ The Auditor's Affidavit, checklist, and photos are contained in [Doc. 8-1, Exhibit A-2].

EXHIBIT “B-1”

Curriculum Vitae

ANDREW R. "GATOR" KORN, ESQ.
The Korn Diaz Firm
4221 Avondale Avenue
Dallas, Texas 75219
(214) 521-8800
akorn@kdbdtexas.com

Andy Korn is Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization, since 2001. Andy is a member of the College of the State Bar of Texas.

Andy's Martindale-Hubbell ratings are: Peer Review AV® Preeminent™ 5.0 out of 5
Client Review Preeminent 4.8 out of 5

Andy was selected as a Texas Super Lawyer in 2006, and from 2009-2015.

Andy is admitted to practice before the United States District Courts for the Northern, Southern, Eastern and Western Districts of Texas and the Fifth Circuit Court of Appeals. Andy has argued several cases before the 5th Circuit, including in 2014.

Andy was admitted to practice in Texas in November, 1989. Andy has more than twenty-five (25) years of experience in commercial litigation, intellectual property litigation, securities litigation and arbitration, tort litigation, constitutional law and employment law, including accountant liability, advertiser liability, brokerage liability, security guard liability, personal injury, legal malpractice, libel, slander, DTPA, consumer law, landlord-tenant, breach of contract, copyright, trademark, rights of celebrity, business torts, injunctions, Fair Labor Standards Act, Federal Communications Act, sexual harassment, wrongful termination, employment discrimination, collections, enforcement of deed restrictions and non-compete agreements. Andy has represented Clients before the Texas Supreme Court and the following Texas Courts of Appeals:

- First District of Texas at Houston
- Second District of Texas at Fort Worth
- Fourth District of Texas at San Antonio
- Fifth District of Texas at Dallas
- Sixth District of Texas at Texarkana
- Eighth Court of Appeals at El Paso
- Tenth District of Texas at Waco
- Eleventh District of Texas at Eastland
- Twelfth District of Texas at Tyler
- Fourteenth District of Texas at Houston

In 2014, Andy's appeals for Clients resulted in opinions issuing from the Fifth and Sixth Districts.

Andy has represented institutions such as Southwestern Bell Mobile Systems, Inc., KPMG Peat Marwick, Credit Suisse First Boston Mortgage Capital, LLC, and Royal Bank of Canada. Andy has represented such well-known individuals as Anthony Robbins and former All-Pro Dallas Cowboy Nate Newton. Andy is frequently hired by other attorneys, as local counsel, expert witness or consulting expert engagements, or for personal representation. Andy has represented brokerages, brokers, and customers in securities related disputes. Andy has served as Lead Counsel in seven arbitrations that resulted in reasoned awards, including securities arbitration through the NASD,

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securities, contract and employment cases before the American Arbitration Association, and an attorney fee dispute before JAMS. Andy has represented both Democrat and Republican political figures. Since 2013, through admission *pro hac vice*, Andy has appeared in cases “coast to coast” – representing clients in a federal court jury trial in Miami, Florida, in federal court hearings in Los Angeles, California, in a bankruptcy case in New Mexico, and in an arbitration in Los Angeles California.

Andy was an associate and participating associate in the Litigation Section of the Dallas office of Fulbright & Jaworski, L.L.P. from 1989-1994.

Andy received his B.A., *cum laude*, from the University of Pennsylvania in 1986 and his J.D. from Vanderbilt University School of Law in 1989. During Andy’s third year of law school, he interned with the Davidson County District Attorney’s Office, where he assisted in the prosecution of misdemeanors.

Andy was born in Brooklyn, New York on May 7, 1965.

Andy’s nickname is the “Gator.”

Publications authored in the previous ten years:

- THE ETHICAL PLEADER. OR, HOW MUCH TRASH CAN I TALK? *Immaterial, impertinent, or scandalous matters in pleadings and communications related to judicial proceedings*, Dallas Bar Association Friday Clinic, August 21, 2015, at the Belo Mansion, 2101 Ross Avenue, Dallas, Texas 75201.
- *Void Judgments and Orders*, for the Civil Track of the 2014 TEXAS COLLEGE FOR JUDICIAL STUDIES (held May 9, 2014 – Austin, Texas).
- *Exempt Property*, for the Dallas Bar Association, CONSUMER-CREDITOR LAW SEMINAR (held September 15, 2009 – Dallas, Texas).
- *DEALING WITH SHERIFFS & CONSTABLES Getting Them to Do the Job*, for the University of Houston Law Foundation COLLECTING DEBTS & JUDGMENTS Seminar (held on August 16-17, 2007 – Houston, Texas and August 23-24, 2007 – Dallas, Texas).
- *DEALING WITH SHERIFFS & CONSTABLES Getting Them to Do the Job*, for the University of Houston Law Foundation COLLECTING DEBTS & JUDGMENTS Seminar (held on August 17-18, 2006 – Houston, Texas and August 24-25, 2006 – Dallas, Texas).
- *Seized Currency*, September/October 2007 PAPER MONEY (Official Journal of the Society of Paper Money Collectors) (Co-authored with David Diaz).
- *The Hulk in the Courtroom* (First appearing on August 7, 2006 on www.comicspriceguide.com).
- *Handling Writs of Execution*, for the State Bar of Texas COLLECTIONS AND CREDITORS’ RIGHTS Seminar (held April 20-21, 2006 –San Antonio, Texas). A copy of this Article is collected in the CLE Appendix to the *Texas Collection Manual* (4th ed. 2012) (published by The State Bar of Texas).

- Case 3:14-cv-03374-B, Document 11, Filed 09/24/15, Page 14 of 15, PageID 132
The Jeisty Banks of Durant, Oklahoma, May/June 2006 PAPER MONEY (Official Journal of the Society of Paper Money Collectors) (Co-authored with David Diaz).

Other cases in which, during the previous four years, Andy testified as an expert at trial or deposition:

- Cause No. 04-0978; *Sky Helicopters, Inc. v. (1) Channel 49 Acquisition Corp. d/b/a KTEN-TV; and (2) Trophy Auto, Inc.*; In the 15th Judicial District, Grayson County, Texas; and
- Cause No. 09-03893; *Dallas Automatic Gate, Inc. v. (1) Devonshire Real Estate and Asset Management, L.P., individually, and d/b/a Regal Brook Apartments; and (2) Godinez-Alcala, L.P., individually and d/b/a Regal Brook Apartments*; In the 134th Judicial District, Dallas County, Texas.

Other testimony:

- On March 17, 2015, at the request of the Texas Alcoholic Beverage Commission, Andy testified before the Texas Senate Business and Commerce Committee in favor of Senate Bill 367 (Relating to the unauthorized use of an alcoholic beverage permit or license; providing a criminal penalty).

Recognition for legal acumen, experience, and professionalism by judges, legislators, and county officials:

- Cause No. DC-15-00014; *RREF CB SBL II Acquisitions, LLC v. UBS Financial Services, Inc.*, in the 101st Judicial District Court of Dallas County (Tillery, J. sitting for Judge Williams); Reporter's Record from January 2, 2015 proceedings on Applicant's *Emergency Application for Writ of Garnishment*, at p. 34 ([The Court] "...the excellent lawyering by Mr. Korn...");
- *J&J Sports Prods., Inc. v. Mandell Family Ventures, LLC v. Time Warner Cable, LLC*, 2013 U.S. Dist. LEXIS 89236, *20 (N.D. Tex. Mar. 31, 2013) (Stickney, Mag.) (*Order* [Doc. 71]), *reversed on other grounds*, 751F.3d346 (5th Cir. 2014) ("David Diaz and Andrew Korn, both of whom have a great deal of experience with antipiracy cases, as well as other civil litigation areas.");
- Transcript of Record at 8, *J & J Sports Prods., Inc. v. Guerra*, 2012 U.S. Dist. LEXIS 155802 (S.D. Tex. Oct. 31, 2012) (Ellison, J.) (C.A. No. H-12-945) ("... I feel blessed to have such good attorneys on both sides.");
- *J&J Sports Prods., Inc. v. Live Oak County Post No. 6119 VFW*, 2009 U.S. Dist. LEXIS 81336 (S.D. Tex. Sept. 8, 2009) (Jack, J.) ("... Mr. Korn's broad experience in this area of the law.");
- Texas State Senate Debate on SB 1269 (now codified at Texas Civil Practice and Remedies Code chapter 34) (Senator Royce West - author of the Bill) ("Issues concerning what the Constables' responsibilities are. This is a story about a very smart attorney who's found some nooks and crannies in some old statutes and exploited them based on a reputed set of facts. Apparently one of Dallas's finest has found a legal loophole... I'm advised that the attorney in question sues small bars who buy pay-per-view boxing matches from a California company...) Video Recording of April 11, 2007 Hearing before the Senate Committee on Jurisprudence (available at http://tlcsenate.granicus.com/MediaPlayer.php?view_id=16&clip_id=2829)

- Cause No. CC-03-09174-D; *KingVision Pay-Per-View v. Eduardo Ortega*, Individually and d/b/a El Burrito Restaurant, and Dallas County Constable, Precinct 5, Michael Dupree a/k/a Mike Dupree and his Surety, America States Insurance Company; In the County Court at Law No. 4 of Dallas County, Texas (Hon. Bruce Woody) (February 4, 2005, R.R. Vol. 4, at p. 118) (After closing argument on Plaintiff's Motion to Recover Full Amount of Judgment: "Thank you. Well presented.");
- Transcript of Record at 7, *Garden City Boxing Club v. Lara*, No. 7:03-cv-00383 (S.D. Tex. April 21, 2004) (Hinojosa, C.J.) ("In fact, you've been very polite, Mr. Korn. I wish everybody would be like you and Mr. Yzaguirre, then I wouldn't have any problems in the courtroom."); and
- Bexar County, Texas Commissioners Court. Proceeding, January 4, 2000. San Antonio, Texas (statement of Bexar County Commissioner Precinct One Robert Tejada):

It was a very smart move for Statewide to bring Mr. Korn in and make that presentation today. I wasn't in the room when the last presentation was made by Statewide. But if it would have been that tenor, I would have very easily and very quickly have moved to throw out all bids and re-bid the process all over again. That would present other problems, but I would be willing to put up with it...